

APPLICANT(S): Yellin, Daniel
SERIAL NO.: 09/493,004
FILED: January 28, 2000
Page 8

REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Applicant asserts that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims are respectfully requested.

Status of Claims

Claims 1-3, 5-14, 18, 21-25 and 28-31 are pending in the application. Claims 4, 15-17, 19, 20, 26 and 27 are canceled without prejudice. Claims 14, 18, 21-25 and 31-32 are allowed.

Claims 1-3 and 6-9 have been amended. Applicant respectfully asserts that the amendments to the claims add no new matter.

Allowable Subject Matter

The Office Action stated that claims 14, 18, 21-25 and 31-32 are allowed. In addition, the Office Action stated that claims 6, 9-13 and 30 would be allowable if rewritten in independent from including the limitations of the base claims and intervening claims.

Claim 6 has been amended to an independent form and includes limitations not taught or suggested by the prior art of record. Although amended claim 6 does not include all the limitations of independent claim 1, it is respectfully asserted that the limitations of amended claim 6 are sufficient to patentably distinguish this claim from the prior art, as implied by the Examiner's indication of allowability.

Amended claim 9 and claims 10-13 are all depended, directly or indirectly, from independent claim 6 and should therefore be allowed for at least the same reasons. Applicant respectfully asserts that these amendments do not narrow the scope of claims 6 and 9. As to claim 30, Applicant believes this claim is allowable in its present dependent form, as discussed below.

APPLICANT(S): Yellin, Daniel
SERIAL NO.: 09/493,004
FILED: January 28, 2000
Page 9

CLAIM REJECTIONS

35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 1-2 and 28-29 under 35 U.S.C. § 103(a), as being unpatentable over McCree et al (US Patent 5,694,426).

In view of the following remarks, Applicant respectfully traverses the rejection of claims 1-2 and 28-29 in as much as such rejections are applicable to the claims as amended.

It is well established that an obviousness rejection requires a teaching or a suggestion by the relied upon prior art of all the elements of a claim (MPEP 2142).

As to amended claim 1, Applicant respectfully asserts that McCree does not teach or suggest a "dynamically fading channel" and/or "a quantization correction command based on the fading characteristics" as recited in amended claim 1. The McCree quantizer is part of a VSELP speech coder and quantization of McCree is performed in order to reduce fluctuation from the speech signal. Thus, it is clear that channel characteristics cannot be used as a basis for a quantization correction command in the system described by McCree.

Furthermore, Applicant respectfully asserts that it is not a matter of design choice by a person skilled in the art to determine a quantization correction command on a segment of the received signal, *inter alia*, because in order to be successful in reducing fluctuation of the speech signal, as taught by McCree, a quantization correction command must be performed on the whole received signal.

In view of the above, Applicant respectfully submits that claim 1 is patentable over McCree. Amended claim 2 is dependent from claim 1 and, therefore, it is respectfully submitted that this claim is patentable at least for the reason given above. Accordingly, Applicant respectfully requests that the rejection of amended claim 2 also be withdrawn.

As to Claim 28, Applicant respectfully asserts that McCree does not teach or suggest a channel estimator. Since claim 29 is dependent from claim 28, Applicant respectfully requests that the rejection of claim 29 be withdrawn at least for the same reasons.

Claim 30, which was indicated by the Examiner to be allowable, is dependent from independent claim 28 and includes all the limitations of this claim as well as additional

APPLICANT(S): Yellin, Daniel
SERIAL NO.: 09/493,004
FILED: January 28, 2000
Page 10

distinguishing features, which the Examiner apparently believes to be patentable. Therefore, Applicant respectfully requests that the objection to claim 30 be withdrawn and that the claim be allowed.

In view of the above, Applicant respectfully submits that the rejections of claims 1-2, 28-29 and the objection to claim 30 should be withdrawn.

Claims 3, 5 and 7-8 are rejected under 35 U.S.C 103 (a) as being unpatentable over McCree et al and further in view of admitted prior art.

Claims 3 and 5 are dependent directly or indirectly from claim 1. Therefore, it is respectfully submitted that these claims are patentable at least for the reason given above. Accordingly, Applicant respectfully requests that the rejection of amended claim 3 and claim 5 also be withdrawn.

As to claims 7-8, Applicant respectfully asserts that claims 7 and 8 have been amended to be dependent, directly or indirectly, from amended independent claim 6, which is believed to be in condition for allowance for the reasons discussed above. Accordingly, Applicant respectfully requests that the rejection of amended claims 7-8 also be withdrawn.

In view of the above, Applicants respectfully submit that the rejections of claims 3, 5, and 7-8 should be withdrawn.

APPLICANT(S): Yellin, Daniel
SERIAL NO.: 09/493,004
FILED: January 28, 2000
Page 11

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 05-0649.

Respectfully submitted,

Caleb Pollack
Attorney for Applicant(s)
Registration No. 37,912

Dated: January 26, 2004

Eitan, Pearl, Latzer & Cohen Zedek, LLP.
10 Rockefeller Plaza, Suite 1001
New York, New York 10020
Tel: (212) 632-3480
Fax: (212) 632-3489